

TISDALE & LENNON, LLC  
11 West 42nd Street, Suite 900  
New York, NY 10036  
Tel: (212) 354-0025  
Fax: (212) 869-0067  
Attorneys for Plaintiff

JUDGE KAPLAN

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ARENA MARINE LTD.,

Plaintiff,

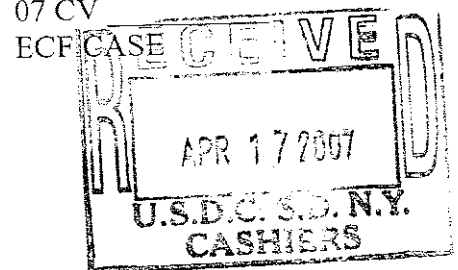
- against -

KHERSON RIVER PORT,

Defendant.  
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07 CV 3090

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ECF



VERIFIED COMPLAINT

The Plaintiff, ARENA MARINE LTD. (hereinafter "Plaintiff"), by its attorneys, Tisdale & Lennon, LLC, as and for its Verified Complaint against the Defendant, KHERSON RIVER PORT (hereinafter "Defendant") alleges, upon information and belief, as follows:

1. This is an admiralty and maritime claim within the meaning of Federal Rule of Civil Procedure 9(h) and 28 United States Code § 1333.
2. At all material times, Plaintiff was and still is an entity duly organized and existing by virtue of the laws of the Marshall Islands.
3. Upon information and belief, at all material times, Defendant was and still is an entity duly organized and existing by virtue of foreign law with a principal place of business in Ukraine.

4. By a contract dated June 19, 2006, Plaintiff and Defendant agreed upon procedures and conditions for the transshipment of ferroalloys in bulk (hereinafter "cargo") for export via the Kherson River Port.

5. Certain disputes arose between the parties regarding Defendant's failure to comply with the contract regarding the transshipment of the cargo provided for by the Plaintiff.

6. Specifically, Defendant failed safely store and load cargo scheduled for shipment onto the m/v "Fatih N", i.e. shortage of 418,369 metric tons of cargo, therefore creating consequential dead freight losses.

7. As a result of Defendant's breach of the contract, Plaintiff has suffered losses in the total principal sum of \$299,875.25, as best can now be estimated, exclusive of interest.

8. Pursuant to the contract, all disputes arising thereunder are to be submitted to the International Commercial Arbitration Court at the Ukrainian Chamber of Commerce and Industry.

9. Plaintiff commenced arbitration on February 21, 2007 by submitting claim papers at arbitration. On or about March 21, 2007 the Ukrainian Chamber of Commerce and Industry issued a Legal Resolution on Secured Interested granting Plaintiff's request to take measures to secure its claim.

10. Interest is routinely awarded to the prevailing party in arbitration proceedings conducted in the International Commercial Arbitration Court. As best as can now be estimated, Plaintiff expects to recover the following amounts:

A.	Principal claim:	\$299,875.25;
B.	Estimated interest on the principal claim at 8.0% for three years:	\$ 77,881.20

Total:	\$377,756.45.
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11. The Defendant cannot be found within this District within the meaning of Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure, but, upon information and belief, Defendants have, or will have during the pendency of this action, assets within this District and subject to the jurisdiction of this Court, held in the hands of garnishees including, but not limited to, ABN-AMRO, American Express Bank, Bank of America, Bank of New York, Deutsche Bank, Citibank, HSBC Bank USA Bank, J.P. Morgan Chase, Standard Chartered Bank and/or Wachovia Bank N.A., which are believed to be due and owing to the Defendant.

12. The Plaintiff seeks an order from this Court directing the Clerk of Court to issue Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims attaching any assets of the Defendant held by the aforesaid garnishees for the purpose of obtaining personal jurisdiction over the Defendant, and to secure the Plaintiff's claims as described above.

**WHEREFORE**, Plaintiff prays:

A. That process in due form of law issue against the Defendant, citing it to appear and answer under oath all and singular the matters alleged in the Complaint;

B. That since the Defendant cannot be found within this District pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims, this Court issue an Order directing the Clerk of Court to issue Process of Maritime Attachment and Garnishment pursuant to Rule B of the Supplemental Rules for Certain Admiralty and Maritime Claims and federal common law attaching all tangible or intangible property in whatever form or any other funds held by any garnishee, including, but not limited to, ABN-AMRO, American Express

Bank, Bank of America, Bank of New York, Deutsche Bank, Citibank, HSBC Bank USA Bank, J.P. Morgan Chase, Standard Chartered Bank and/or Wachovia Bank N.A. which are due and owing to the Defendant, in the amount of \$377,755.45 to secure the Plaintiff's claims, and that all persons claiming any interest in the same be cited to appear and pursuant to Supplemental Admiralty Rule B answer the matters alleged in the Verified Complaint;

C. That this Court recognize and confirm any foreign judgment/award of costs on the claims had herein as a judgment of this Court;


D. That this Court retain jurisdiction over this matter through the entry of any judgment or award associated with any of the claims currently pending, or which may be initiated in the future, including any appeals thereof; and

E. That the Plaintiff have such other, further and different relief as the Court may deem just and proper.

Dated: April 17, 2007  
New York, New York

The Plaintiff,  
ARENA MARINE LTD.

By:

  
Lauren C. Davies (LD 1980)  
Kevin J. Lennon (KL 5072)

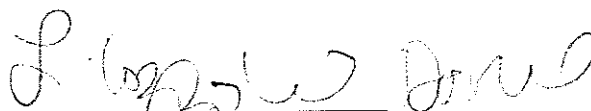
TISDALE & LENNON, LLC  
11 West 42nd Street, Suite 900  
New York, NY 10036  
(212) 354-0025 (Phone)  
(212) 869-0067 (Fax)  
[ldavies@tisdale-lennon.com](mailto:ldavies@tisdale-lennon.com)  
[klennon@tisdale-lennon.com](mailto:klennon@tisdale-lennon.com)

ATTORNEY VERIFICATION

State of Connecticut )  
 ) ss: Town of Southport  
County of Fairfield )

1. My name is Lauren C. Davies.
2. I am over 18 years of age, of sound mind, capable of making this Verification and fully competent to testify to all matters stated herein.
3. I am the attorney for the Plaintiff in this action. I am fully authorized to make this Verification on its behalf.
4. I have read the foregoing Verified Complaint and the contents thereof are true and accurate to the best of my knowledge, information and belief.
5. The reason that this Verification was made by me and not the Plaintiff is that the Plaintiff is a corporation none of whose officers are present in this District.
6. The source of my knowledge is information and records furnished to me by the Plaintiff and its counsel, all of which I believe to be true and accurate.

Dated: April 17, 2007  
Southport, CT

  
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Lauren C. Davies